UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SWE/2000/5
17 November 2000

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

FIFTH PERIODIC REPORTS OF STATES PARTIES DUE IN 1999

ADDENDUM

Sweden

[23 October 2000]

GE.00-45997 (E)

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Introduction

1. Sweden submitted its initial report under the Covenant in March 1977 (CCPR/C/1/Add.9 and Corr.1), its second report in November 1984 (CCPR/C/32/Add.6 and 8), its third report in October 1989 (CCPR/C/58/Add.7) and its fourth report in October 1994 (CCPR/C/95/Add.4).

2. The information provided in Sweden's previous reports still applies with reference to articles 1, 4-8, 11-12, 15-16, 18 and 21-23 of the Covenant. The current report addresses the parts of the Covenant with regard to the significant changes which have occurred, or important developments that have taken place in Sweden since our last report.

3. With regard to the reservations made by Sweden, reference is made to the statements made during the consideration of Sweden's last report (CCPR/C/SR.1456, paras. 14-18).

Article 2

Paragraph 1

4. As stated in the fourth periodic report (CCPR/C/95/Add.4, para. 2) and in earlier Swedish reports, the Swedish Constitution prohibits discriminatory treatment by courts or administrative authorities as well as the enactment of any discriminatory laws and regulations.

5. In addition to what was stated in the fourth periodic report (CCPR/C/95/Add.4, paras. 12-14), Sweden would like to stress the following: Preventing and combating ethnic discrimination, racism, xenophobia and other types of intolerance is one of the Government's most important tasks. One point of departure for the Government's efforts in this area is to ensure that there is effective legislation which criminalizes acts of racism and xenophobia. The relevant legal provisions are periodically reviewed by the Government with a view to ensuring that current issues are adequately addressed. Racism and ethnic discrimination are also being combated in a number of other ways. For detailed information, Sweden would like to refer to its 13th and 14th periodic reports under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/362/Add.5) and the supplementary information provided by Sweden during the consideration of those reports on 10 and 11 August 2000 (see CERD/C/57/CRP.3/Add.2), as well as the fourth periodic report submitted by Sweden under the Covenant on Economic, Social and Cultural Rights (E/C.12/4/Add.4).

6. The Penal Code contains two provisions directly concerned with contempt or discrimination on the grounds of race, colour, national or ethnic origin or religion, namely those relating to agitation against an ethnic group and unlawful discrimination. An initial account of these provisions is presented in paragraphs 31 and 32 of Sweden's twelfth periodic report under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/280/Add.4).

7. According to Chapter 16, Section 8 of the Penal Code, a person who, in a disseminated statement or communication, threatens or expresses contempt for a national, ethnic or other such group of persons with allusion to race, colour, national or ethnic origin or religious belief shall

be sentenced for agitation against a national or ethnic group to imprisonment for at most two years or, if the crime is petty, to a fine. The provision prohibits public dissemination of racist statements or other expressions of racist attitudes or beliefs, as well as dissemination of such expressions within an organization.

8. In October 1996, the Supreme Court ruled that wearing Nazi symbols in public could be regarded as agitation against an ethnic group and was thereby punishable under Chapter 16, Section 8 of the Penal Code. This precedent-setting ruling has led to further convictions for agitation against an ethnic group, for the use of Nazi symbols and for other expressions of racist opinions.

9. Further, under Chapter 18, Section 4 of the Penal Code, a person who founds or participates in an association which must be considered to constitute or, in view of its character and the purpose for which it has been organized, is easily capable of developing into an instrument of force such as a military troop or a police force, and which does not with due authority reinforce the national defence or the police, or who on behalf of such association deals in arms, ammunition or other similar equipment, makes available a building or land for its activity or supports it with money or in other ways, shall be sentenced for unlawful military activity to a fine or imprisonment for at most two years. This provision is aimed at preventing the establishment of organizations which are beyond the reach of democratic control.

10. To facilitate measures to combat agitation against an ethnic group, the provision in Chapter 16, Section 12 of the Penal Code has been amended as of 1 January 1999. A person who distributes among children or young persons a written text, picture or technical recording, which owing to its content may brutalize or otherwise involve serious danger to the moral nurture of the young, shall be sentenced for leading youth astray, to a fine or imprisonment for at most six months. This provision is applicable in cases where racial propaganda has been distributed to children and young people using devices such as compact discs. It is applicable irrespective of the guarantees set out in the Fundamental Law on Freedom of Expression.

11. According to Chapter 29, Section 2 of the Penal Code, certain aggravating circumstances, in addition to what is applicable to each and every type of crime, shall be given special consideration in assessing the penal value of a crime. According to this provision, special consideration shall be given to whether a motive for the crime was to aggrieve a person, ethnic group or some other similar group of people by reason of race, colour, national or ethnic origin, religious belief or other similar circumstance. By similar circumstance is meant, foremost, sexual orientation. This provision is intended to enhance the overall protection of any victim against offences committed with a racist or similar motive.

12. According to Chapter 16, Section 5 of the Penal Code, a person who orally, before a crowd or congregation of people, or in a publication distributed or issued for distribution, or in other messages to the public, urges or otherwise attempts to entice people to commit a criminal act, evade a civic duty or disobey public authority, shall be sentenced for inciting rebellion to a fine or imprisonment for at most six months. Punishment shall not be imposed in petty cases. In assessing whether the crime is petty, special consideration shall be given to whether there was only an insignificant risk that the enticement or attempted enticement would in fact have effect.

If the crime, in view of the fact that the offender attempted to instigate the commission of a serious crime or in view of other circumstances, must be regarded as gross, imprisonment for at most four years shall be imposed.

13. Punishment as prescribed in the Penal Code is imposed not only on the perpetrator but also on the person who furthered the crime by advice or deed. Participation in crimes carried out in organized form can also be punishable according to provisions on preparation, participation, conspiracy or complicity.

14. The provisions referred to above mean that an organization engaged in racist activities cannot act without breaking the law.

15. In August 1998, the Government appointed a Parliamentary Commission to study crimes related to certain organizations. The Commission is instructed to consider whether it should be made a criminal offence to participate actively in an organization whose operations involve criminal activities. According to the Commission's terms of reference, active participation could include financing or supporting the organization in other ways. In this connection, the Commission was also instructed to consider whether the provision concerning agitation against a national or ethnic group is sufficient to prevent racist organizations from functioning. Further, the Commission has been instructed to consider the issue of a similar criminal responsibility for agitation against persons because of their sexual orientation. The Commission is expected to present its report in October 2000.

16. The Penal Code's provision on unlawful discrimination prohibits discrimination in the conduct of business as well as in public assemblies and gatherings on grounds of a person's race, colour, national or ethnic origin, religious belief or sexual orientation.

17. In May 1999, a one-person committee of inquiry assisted by a panel of experts was appointed to review this provision. The reviewing body should consider the question of whether the provision should be extended or reframed in such a way as to make it a more effective measure against unlawful discrimination. Within this review, the possibilities of, and the need for, a prohibition on discrimination of persons with disabilities will also be considered.

18. Support for, or the promotion of, racial discrimination by public authorities is explicitly forbidden under the Constitution and the provisions of the Penal Code relating to unlawful discrimination, agitation against an ethnic group and other offences. The prohibition also applies to people in public employment.

19. The National Courts Administration is the authority responsible for, inter alia, budget, administration and training within the judiciary. Issues relating to discrimination are a natural part of the education and training of judges and court officials offered by the Administration.

Paragraph 2

20. As has been stated in earlier reports, in order for a treaty to become part of Swedish law it must be either transformed into domestic law or incorporated through a special act stating that the treaty shall apply as Swedish law. Incorporation is very rare, while transformation is

regularly performed, if necessary before a treaty is ratified. Before Sweden ratified the International Covenant on Civil and Political Rights, a careful scrutiny had been made, in the relevant Bill to the Swedish Parliament, to ensure that Swedish law was in conformity with the Covenant. As stated on earlier occasions (see, e.g. CCPR/C/SR.1456, para. 5), scrutiny showed that Swedish law complied to a very large extent with the Covenant. Under the case law of the Swedish Supreme Court, domestic legislation must be interpreted in accordance with Sweden's international obligations. It is the view of the Swedish Government that the rights enshrined in the Covenant enjoy protection under the domestic legal order in accordance with Sweden's obligations under the Covenant. The Government is therefore of the opinion that the Committee's recommendation (CCPR/C/79/Add.58, para. 19) is fulfilled.

Paragraph 3

21. In addition to the statements provided in Sweden's earlier reports, the Committee is referred to the information under article 14 of the present report.

Article 3

22. As mentioned in earlier Swedish reports (CCPR/C/58/Add.7, para. 25 and CCPR/C/95/Add.4, para. 25), the principle of equality between men and women is laid down in the Constitution.

23. In connection with the issue of equality, Sweden would like to refer to its fourth periodic report under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/SWE/4) and the fourth periodic report submitted by Sweden under the Covenant on Economic, Social and Cultural Rights (E/C.12/4/Add.4).

24. One of the goals of the Government's policy on gender equality is for women and men to have the same chance of achieving financial independence. To elicit more information about the discrepancy between women's and men's access to financial resources, the Government appointed the Committee on the Distribution of Economic Power and Economic Resources between Women and Men in 1995 to identify and analyse the distribution of economic power and financial resources between the two groups.

25. Its report showed that in working life, women's and men's earnings and working hours have tended to converge. Women today are less dependent on men than they used to be. But there are still pay differentials between women and men and these differentials did not diminish in the 1990s.

26. The work of the Committee on the Distribution of Economic Power has helped in bringing these circumstances to light and the Government has earmarked special funding for the purpose of spreading awareness of the Committee's findings. In its final report, *For Thine is the Power: the Myth of Rational Employment and Swedish Gender Equality* (SOU 1998:6), the Committee proposed a number of measures and the Government has largely followed them up. A number of programmes and measures in various fields are either under way or already in place. A few could be mentioned here.

27. The Government set up an inquiry in mid-1998 for the purpose of reviewing parts of the Act Concerning Equality Between Men and Women.

28. The Government has set up a committee to review the 1990s in terms of welfare and present a "statement of accounts". The areas covered by the proposals of the Committee on the Distribution of Economic Power will be included in this report.

29. Sweden's county governors have been specifically directed to spread awareness of the findings reported by the Committee on the Distribution of Power and have been provided with financial means to organize conferences on the theme of power, economy and gender.

30. The Government is seeking by various means to tackle the problem of the unwarranted pay differentials that currently exist between women and men. The commission reviewing the Act Concerning Equality Between Men and Women was instructed to analyse issues relating to work evaluation. The Government will submit a bill in 2000 containing proposals on strengthening the Act Concerning Equality Between Men and Women.

31. Statistics Sweden (SCB) and the National Institute for Working Life have been directed to work on developing pay statistics so that they might provide a basis for a more detailed analysis of pay differentials between women and men.

32. In 1999, the Government directed all national agencies to pursue gender equality issues more actively, including such matters as equal pay for similar work or for work of the same value. The agencies' reports on these issues are being compiled at the Government Offices.

33. Sweden staged an EU conference in November 1999 entitled *Equal Pay and Economic Independence as a Basis for Gender Equality*. Among those invited to attend were the ministers responsible for gender equality affairs of the EU Member States, the candidate countries and the Nordic countries as well as representatives of employer and trade union organizations.

34. Efforts to prevent and eliminate violence against women have had high priority in Sweden in recent years and various measures have been implemented to this end. They include preventive measures, stricter penalties, procedural improvements and better support for women victims of violence.

35. In 1998 the Parliament adopted an act on legislative provisions and other measures to counteract violence against women. Most of the legislative changes following from that act entered into force on 1 July 1998. A prohibition of the purchase of sexual services entered into force on 1 January 1999.

36. A new offence - gross violation of a woman's integrity - has been introduced into the Penal Code. It covers repeated punishable acts directed by men against women having, or having had, a close relationship with the perpetrator. Several judgements have been pronounced on the basis of the new provision.

37. In short, gross violation of a woman's integrity means the following: If a man commits certain criminal acts (assault, unlawful threat or coercion, sexual or other molestation, etc.) against a woman to whom he is or has been married or with whom he is or has been cohabiting, he shall be sentenced for gross violation of the woman's integrity, instead of the crimes that each of the acts comprise. The punishment is imprisonment for at least six months and at most six years.

38. The new crime makes it possible for the courts to increase the penal value of the above-mentioned acts, in situations where they are part of a process which constitutes a violation of integrity, which is often the case with domestic violence. It will thus also be possible, in a better way than with the former legislation, to take the entire situation of the abused woman into account. The new crime does not exclude the possibility of the perpetrator simultaneously being indicted for, for instance, aggravated assault or rape.

39. The Penal Code provision on rape has been widened so that sexual intercourse is to be understood to include other sexual acts, if having regard to the nature of the violation and other circumstances, the act in question is comparable to forced sexual intercourse. This means that certain acts which under the former legislation were defined as sexual coercion will be considered as rape.

40. Neglecting to report or otherwise reveal grave sexual offences (rape, aggravated rape, grave sexual exploitation of a minor or grave procurement) has been made punishable under certain circumstances.

41. The Government has released a website on issues related to violence against women, which is located at www.kvinnofrid.gov.se.

42. A Parliamentary Committee has been instructed to undertake a complete review of the provisions on sexual offences and to consider whether the legislation needs to be made more stringent in some respects. The committee has been instructed to examine to what extent the offence of rape should focus on lack of consent rather than force. It shall also consider the need for introducing a specific offence on trafficking in human beings despite the fact that such trafficking may already be penalized under other penal provisions. It will further examine whether Sweden should give up the current dual criminality requirement for jurisdiction in cases of sexual crimes committed abroad against women and children. The committee is expected to finalize its work by January 2001.

43. Traditionally, it is women who have been actively involved in gender equality issues. Men have often been absent from these endeavours. But if gender equality is to become a reality in all areas and at all levels of society, both men and women must be willing to see change and be actively involved. The Government's efforts to involve more men in gender equality issues have focused on persuading more fathers to take out parental leave, on boosting the number of men working in schools and childcare and on supporting men involved in the work against violence. The Government has set aside funds for a two-year project on men and gender equality. It aims at identifying obstacles to men's involvement in gender equality development,

finding measures that need to be taken to attract men to such work and to participate in conferences and the public debate. A reference group consisting of representatives from the labour market, political parties and the universities has been attached to the project, which will be concluded in June 2001.

Article 9

Paragraph 2

44. As of 1 April 1998, a new legislative provision has entered into force whereby a person shall be informed of the reasons and the charges against him or her at the time of apprehension and not, as before, at the time of arrest.

Paragraph 3

45. As of 1 February 1996, the provisions on certain prescribed time limits which the prosecutor and the court must observe regarding arrested persons have been amended. An application for a detention order shall now be submitted without delay and not later than 12.00 a.m. on the third day after the arrest order.

46. If an application for a detention order has been presented, the court shall hold a hearing on the issue of detention without delay. The detention hearing may not be held later than four days after the suspect was apprehended or the arrest order was executed.

47. If the court has decided on the detention of a person in his/her absence from the court, the court shall be notified as soon as the order has been executed or the impediment to attendance has lapsed. Subsequent to the notification, the court shall without delay hold a hearing on the matter of detention. The detention hearing may not be held later than four days after the execution of the detention order or after the impediment to the suspect's attendance has lapsed.

48. An application for a detention should be made the same day as the arrest order or not later than the day after the arrest order. If there are exceptional reasons, the application for a detention order may be made at the latest on the third day after the arrest order. If an application for a detention order had been presented, the court should hold a hearing on the issue of detention the same day or not later than the day after. If there are exceptional reasons, it may hold the hearing later but not later than four days after the suspect was apprehended or the arrest order was executed.

49. On 1 March 1995, extensive amendments to the Act on Special Provisions for Young Offenders came into force. A detailed account of the Act has been given in the second periodic report of Sweden under the Convention on the Rights of the Child (CRC/C/65/Add.3). Subsequent to that report there has been one amendment to the Act, which is described below under article 14, paragraph 4.

Paragraph 5

50. A right to compensation from the State in certain cases for damage caused by deprivation of liberty and other coercive measures is laid down in the Act Concerning Compensation in Case of Deprivation of Liberty and Other Coercive Measures. The Act came into force on 1 January 1999 when the 1974 Act concerning Damages for Restriction of Liberty was repealed.

Article 10

Paragraph 1

51. As mentioned in the fourth periodic report (CCPR/C/95/Add.4, para. 56), intensive supervision with electronic monitoring is a new way of serving short prison sentences in Sweden. A prison sentence of not longer than three months can be served at home. The offender will only be allowed to leave home to go to work and for certain specific purposes. The use of drugs and alcohol is forbidden. If the offender disobeys the rules, he or she has to serve the sentence in prison.

52. Intensive supervision with electronic monitoring had been carried out on a trial basis in selected areas since 1994. Since 1999, it has been used on a regular basis in the whole country.

53. Since 1994, community service has been used especially for young offenders. From 1999, the use of community service has been extended. It is no longer especially designated for young offenders. A conditional sentence or probation may, with the consent of the sentenced person, be combined with a condition of community service. Such a condition shall prescribe an obligation to carry out unpaid work for at least 40 hours and at most 240 hours. Community service is intended to be used as an alternative to imprisonment. When the court decides on a condition of community service, it shall state in its judgement what length of imprisonment would have been imposed if imprisonment had been chosen as the sanction.

54. The amendments to the Act on Correctional Treatment in Institutions, mentioned in the fourth periodic report (CCPR/C/95/Add.4, para. 61), were enacted in 1995. They concern the fight against narcotics in prisons and the improvement of order and safety in prisons.

55. By the adoption of the 1995 amendments, the possibility for prisons to further specialize in various educational or treatment programmes was enhanced. A new principal rule was introduced whereby every inmate should be placed in a prison where his or her special needs for education or treatment can be met.

56. In pursuance of article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a visit to Sweden on 15-25 February 1998. The visit formed part of the CPT's programme of periodic visits for 1998, and was the second periodic visit to Sweden to be carried out by the CPT.

57. During its stay in Sweden, the CPT visited different police establishments and prisons and one detention centre. The CPT was interested in, inter alia, investigating conditions of detention and safeguards against ill-treatment of detained persons. On 24 July 1998 the CPT presented a report (CPT [98] 24) to the Swedish Government containing recommendations, comments and requests for information based on the committee's findings during its visit to Sweden. At the request of the CPT, the Swedish Government on 3 February 1999 presented the CPT with an interim report containing responses to the CPT's recommendations, comments and requests for information. On 25 February 1999, the Council of Europe published the CPT's report and the Swedish Government's interim report (CPT/Inf [99] 4). On 29 September 1999, the Swedish Government also submitted a follow-up report to the previous interim report.

58. Regarding the treatment of persons in detention, the Swedish Government would like to make a reference to the above-mentioned reports.

59. In a Parliamentary Bill (1999/2000:44), the Government has proposed some amendments to the Compulsory Psychiatric Care Act and the Forensic Mental Care Act. As regards transition from voluntary to compulsory care, the Government proposed examination by two physicians and tightening up the requirement of adjudication by a court of law. The Government also proposed that patients who come to be considered for compulsory psychiatric care should have greater access to "a supportive person". As regards treatment during compulsory care, the Government proposed that a general provision should be enacted whereby coercive measures may be used only if the patient cannot be induced through individualized information to participate of his or her own free will. The use of coercive measures shall be reasonable in proportion to what should be achieved through the measure taken. Less intrusive measures are to be employed if sufficient. Coercive measures shall be exercised as gently as possible and with the greatest possible consideration towards the patient, so that he or she will not be subjected to any unnecessary infringements of his or her dignity and privacy.

60. By a 1998 amendment to the Act on the Treatment of Persons Remanded in Custody and Arrested Persons, the possibilities for detainees to spend time together with other detainees was increased. Such interaction may be limited primarily for security reasons.

Paragraph 3

61. With regard to the information provided in paragraphs 64 and 65 of the fourth periodic report, Sweden would like to add that the social welfare system bears the main responsibility for young offenders under the age of 21.

62. The Swedish sanction system for young offenders was changed on 1 January 1999. A new sanction, institutionalized juvenile care, was introduced. If a person has committed a crime before attaining the age of 18, and if the court finds that the sanction should be imprisonment, it shall instead decide on the sanction of institutionalized juvenile care for a certain period. However, this shall not apply if, having regard to the age of the accused at the time of prosecution or other circumstance, special reasons argue against this course of action. The court may impose institutionalized juvenile care for at least 14 days and at most 4 years. Provisions on the enforcement of institutionalized juvenile care are contained in the Act on the Enforcement of Institutionalized Juvenile Care.

63. The sentence is served in special homes for young people. The National Board of Institutional Care is responsible for the implementation of institutionalized juvenile care. The aim of the reform is to avoid prison for persons under the age of 18 and to counteract the harm which can result from a stay in prison. Since the new sanction entered into force, no person who has committed a crime before the age of 18, has been sentenced to prison. Approximately 90 persons were sentenced to institutionalized juvenile care during 1999.

64. In 1999, changes were also made in the system of special sanctions for young offenders called care within the social welfare services. If a person under the age of 21 has committed a criminal act and he or she can be made subject to treatment or other measures under the Social Services Act or the Act on Special Provision for Young Offenders, the court may entrust the case to the Social Welfare Committee to make arrangements for the necessary treatment by the social welfare services in accordance with a treatment plan for the offender prepared by the Committee.

65. If the penal value or nature of the criminal act or the previous criminality of the offender so require, the court may combine treatment by the social welfare services with day-fines (fines proportional to the offender's daily income) or a special condition that the offender shall carry out unpaid work or take part in some other specially arranged activity (youth service) for at least 20 hours and at most 100 hours, provided that the offender agrees.

66. A provision has been introduced by which the placement of young inmates (under 18 years) together with older inmates is prohibited unless such a placement is considered favourable to the young inmate. Furthermore, female inmates should normally be placed in special female prisons where their special needs can be given better attention.

Article 13

67. The information on article 13 given in Sweden's fourth periodic report is, in general, still valid. The following changes should, however, be mentioned.

68. The Aliens Act, and the case-law by the Aliens Appeals Board, regulate in detail the right to appeal against any decision on detention, expulsion, residence or asylum. Since 1997 an alien can also appeal against a rejected application for a residence permit in Sweden from abroad.

69. In 1997, the responsibility for detention issues was transferred from the police to the Swedish Immigration Board (as of 1 July 2000, the Swedish Migration Board). In the Aliens Act it is emphasized that aliens who are kept in detention shall be treated in a humane manner and that their dignity is to be respected.

70. In 1997, the concept of de facto refugee in the Aliens Act was replaced by the concept of aliens otherwise in need of protection. According to the Act, an alien otherwise in need of protection is a person who (a) has a well-founded fear of being sentenced to death or of corporal punishment or of being subjected to torture or other inhuman or degrading treatment or punishment; (b) due to an internal or external armed conflict needs protection or, on account of an environmental disaster, cannot return to the country of origin; (c) because of his or her gender or homosexuality has a well-founded fear of persecution.

71. In the meeting in the Human Rights Committee on 26 October 1995 (CCPR/C/SR.1456) the Committee questioned the Swedish delegation about the Act Concerning Special Controls in Respect of Aliens from 1991 and the possibility of appeal against a government decision on expulsion. In this connection, the Committee recommended in its concluding observations that Sweden should review its legislation in order to allow such decisions to be reviewed by competent authorities (CCPR/C/79/Add.58, para. 24).

72. In 1999, a Parliamentary Committee proposed new provisions on appeal against a decision to expel an alien pursuant to the Special Control Aliens Act from 1991. The Migration Board will be the first instance. The decisions of the Migration Board can be appealed to the Government. Before the Government decides, it must submit the case to the Supreme Court for opinion. If the Supreme Court considers that there are impediments to enforcing the expulsion order because of reasonable grounds to believe that the alien would risk capital or corporal punishment, torture or other inhumane treatment, this will be binding for the Government. A bill concerning this legislation is under preparation in the Government Offices.

Article 14

Paragraph 1

73. Firstly it may be mentioned that the European Convention for the Protection of Human Rights and Fundamental Freedoms has applied as Swedish law since 1 January 1995. This means that the Convention is directly applicable and can be referred to by individuals before courts and authorities.

74. The Act regarding Judicial Review of Certain Administrative Decisions has been made permanent through an amendment that entered into force on 1 July 1996. A regulation has also been incorporated into the law enabling oral hearings in cases where a party requests such a hearing and it is not clearly unnecessary that such a hearing be held.

75. The amendments in the area of administrative law have continued. Above all, this has led to a greater right of appeal in court against decisions by administrative organs and has also established a uniform order of appeal for this procedure, with the county administrative courts as the first instance, the administrative court of appeal as the second instance, and the Supreme Administrative Court as the final court of appeal. The amendment process has also been aimed at introducing a two-part process in administrative cases similar to that which applies in criminal and civil cases.

76. The main rule in administrative cases today is that a decision made by a government or municipal authority can be appealed by those affected by the decision before a county administrative court in the first instance. Appeals against certain decisions, for example those that concern the internal administrative concerns of authorities, are still made before the central authorities and/or the Government.

77. Prior to the latest amendment, cases in the administrative courts were generally a one-party process, i.e. the individual appealing against a decision by an authority had no opponent in the court. A court could certainly obtain a statement from the decision-making body, but the authority was not a party to the case and was not able to appeal a court decision or judgement (with the exception of, e.g., tax cases).

78. Amendments in this area mean that the authority that made the decision against which an appeal is being lodged is the complainant's opponent in the court. This means, for example, that an authority can appeal a court decision or judgement in the same way as an individual. This procedure allows more room for the establishment of case-law.

Paragraph 3

79. Legislation that entered into force on 1 April 2000 gives individuals the right to use Sami, Finnish and Meänkieli in dealings with administrative authorities and courts of law in geographical areas where the languages have established roots and are still used to a significant extent. These areas comprise Sweden's five most northerly municipalities. The right applies to contact with administrative authorities and courts of law, irrespective of whether or not the person concerned has a command of Swedish.

Paragraph 4

80. The Bill on legal proceedings against young offenders described in paragraph 72 of Sweden's fourth periodic report has been adopted. The new rules on hearing of cases against juveniles entered into force on 1 March 1995. The following adjustments and additions should be made to what was stated in the last report.

81. Since 1 January 1999, the time limit for a preliminary investigation against someone under 18 years of age and concerning crimes for which the prescribed penalty is more than six months' imprisonment has been increased from four to six weeks. The reason for lengthening the time limit was that greater demands are placed on the social services by requiring their statements to be more detailed and to contain a so-called care programme.

82. In 1998, the Government appointed the Commission of Inquiry into Young Offenders to examine how the new rules for dealing with young offenders that entered into force on 1 March 1995 have been applied, whether the intended aims of the new rules have been realised, and what other effects the new rules have had on the police, prosecutor and court procedures and within the social services. The Commission presented its work in a report (SOU 1999:108, Dealing with Young Offenders – an Evaluation of the 1995 Young Offenders Reform). The Commission's report stated that the courts had strongly criticized the demand that judges hearing juvenile cases be specially qualified. The Commission therefore proposed that the requirement for special qualifications be replaced by a regulation that the experienced judges hearing juvenile cases should be specially appointed for this purpose. According to the Commission, there was also insufficient reason to maintain the requirement that those

lay-assessors serving in juvenile cases should be specially qualified for this. Thus, no special appointment for lay assessors is proposed. It is also stated in the Commission's report that it is unsatisfactory that there is no special regulation on public defence counsels in the Act that covers the preliminary investigation stage. The Commission therefore proposes an amendment enabling public defence counsels to be appointed during the preliminary investigation for suspects below the age of 18 years unless it is clear that the young person does not need a defence counsel. The Commission also proposed that greater demands be placed on participation by the guardian and the social services, both during the preliminary investigation and the trial.

Paragraph 5

83. In para. 73 of its fourth report, Sweden provided an account of the contents of the current regulations on leave to appeal in criminal cases. In its concluding observations, the Committee had requested additional information on this matter (CCPR/C/79/Add.58, para. 25).

84. In order to clarify any possible misunderstandings about the conditions for the leave to appeal in criminal cases, the Swedish Government would like to provide the following information.

85. According to the Code of Judicial Procedure, a leave to appeal in criminal cases is required for the court of appeal to review a district court's judgement whereby the defendant was sentenced to a sanction other than a fine or was acquitted of liability for an offence in respect of which a more severe penalty than imprisonment for six months is not prescribed.

86. A leave to appeal may be granted only if: (1) it is of importance for the guidance of the application of law that a superior court considers the appeal; (2) there are reasons for amending the verdict of the district court; or (3) there are otherwise extraordinary reasons for considering the appeal.

87. This regulation means that the court of appeal will assess whether reason might be found to change the judgement of the district court. In this context, it is enough if the court of appeal harbours doubts as to the correctness of the district court's decision. If this is the case, the leave to appeal should be granted and the case tried completely. Otherwise, the court of appeal decides the case by a decision not to grant a leave to appeal. The background material for the court of appeal's decision is the district court's judgement and other procedural material presented at the district court as well as the statements in the complainant's appeal application. The court of appeal can grant a leave to appeal for both evidence and issues of law.

88. The court of appeal can also issue a leave to appeal in the form of a so-called extraordinary exemption. This regulation concerns those cases in which certain serious errors have arisen in the procedures.

89. When dealing with questions concerning leave to appeal the court of appeal should consist of three members. The president of the court of appeal, a division head or a judge of appeal should take part in the decision.

Paragraph 6

90. A new Act Concerning Damages for the Restriction of Liberty and Other Restrictive Measures entered into force on 1 January 1999. This Act replaced the 1974 Act mentioned in paragraph 55 of Sweden's fourth report. The new law can be summarized as follows.

91. A person who has been remanded in custody or has been under arrest for at least 24 hours on suspicion of a crime has the right to damages if he or she is acquitted, the case is turned down or dismissed, or the preliminary investigation is discontinued. Damages can also be awarded in other cases, for example if the judgement concerns a milder penal provision and it is clear that restriction of freedom would not have been decided upon in such a judgement. A person also has the right to damages if he or she has been the victim of a similar deprivation of liberty abroad because of being wanted by a Swedish authority for a crime or because there is a request for his or her arrest or extradition for a crime. Those who have served a prison sentence or been subject to other curtailment of liberty because of a conviction have the right to damages if the judgement is changed to an acquittal after an appeal, if a milder penalty is imposed or if the judgement is set-aside after a special review with no decision on a new hearing.

92. Those deprived of liberty in cases other than those mentioned here as the result of a decision by an official authority have also the right to damages if it is clear that the decision was based on false grounds.

93. Damages are paid for expenses, lost income, infringement of business activity and suffering because of deprivation of liberty.

94. The injured party is not entitled to damages if he or she with intent caused the measures to be taken. Damages can also be adjusted or refused in certain specified circumstances related to behaviour of the injured party, if the injured party has tried to remove evidence or make the investigation more difficult in some other way.

95. Finally, a person who incurs personal injury or property damage through violence exercised with the support of certain regulations in the Police Act, the Enforcement Code or the Customs Act is entitled to damages if the injured party has not behaved in such a way that it was necessary to use violence against his or her person or property.

Article 17

96. As stated in earlier reports, the Constitution contains a provision protecting a person's personal integrity as far as computerized files are concerned (see CCPR/C/95/Add.4, para. 78).

97. The Data Protection Act was repealed on 24 October 1998 when a new Act, the Personal Data Act, entered into force. The Act implements the Directive 95/46/EC of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

98. The Act applies to processing of data which is wholly or partly automated as well as to other processing of data, if the data is included in, or is intended to form part of, a structured collection of personal data that is available for searching or compilation according to specific criteria. Thus, the scope of the Act is much wider than the scope of the Data Protection Act, which only applied to automated processing of personal data in filing systems.

Article 19

99. As stated in the fourth periodic report, the freedom of expression in the mass media in Sweden is protected by constitutional law: the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. Since 1999, the scope of the Fundamental Law on Freedom of Expression is extended as regards new media. It now covers the freedom of expression in sound radio, television and certain other broadcasting as well as all recordings of sound, picture or text, as long as the contents can only be partaken by means of technical aid. This means, for instance, that a book published on a CD-ROM enjoys protection under this fundamental law. A Governmental Committee has been given the assignment of reviewing the scope of the Fundamental Law on Freedom of Expression, and to consider whether its scope should be extended further.

Article 20

100. A general reference is made to the thirteenth and fourteenth periodic reports submitted by Sweden under the International Convention on the Elimination of all Forms of Racial Discrimination (CERD/C/362/Add.5). Sweden would like to submit the following additional information.

101. As stated above, freedom of expression in the mass media in Sweden is protected by the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. Some expressions in the mass media are, however, regarded as offences against the freedom of the press and the freedom of expression. This could, for example, be the case when it comes to so-called hate-speech.

102. The periods of limitation for these offences are shorter than the periods of limitation for offences against ordinary statute law, in practice the Penal Code. This has been regarded as a considerable problem. Therefore, a governmental committee has been given the assignment of reviewing the periods of limitation for offences against the freedom of the press and freedom of expression, and to consider whether these periods should be lengthened.

103. A new Act on Responsibility for Electronic Bulletin Boards entered into force on 1 May 1998. The Act requires suppliers of electronic bulletin boards to delete any message whose content clearly constitutes, inter alia, agitation against a national or an ethnic group.

Article 24

104. The provisions of the Swedish Code relating to Parents, Guardians and Children relating to custody and contact were amended on 1 October 1998. One of the aims of the amendments has been to pave the way for more frequent application of joint custody.

105. If one of the parents wants an alteration of custody, the court decides the matter in accordance with the best interests of the child. The court can decide on joint custody or refuse to dissolve joint custody even though one of the parents opposes this. However, a precondition for the court to be able to go against the will of a parent is that joint custody is in the best interests of the child.

106. A new act on a Special Representative for Children entered into force on 1 January 2000. The new legislation aims at reinforcing the rights of children when a parent is suspected of a crime against the child. In these cases, a special representative for the child can be appointed on certain conditions. The special representative can then, instead of the child's parents, safeguard the rights of the child during the investigation and the legal proceedings.

107. The proposed amendments of the Penal Code mentioned in paragraph 117 of Sweden's fourth periodic report have been adopted by Parliament and entered into force on 1 January 1995.

108. A new offence - gross violation of integrity - has been introduced. The provision entered into effect on 1 July 1998. Anyone who commits criminal acts under the provisions of Chapters 3, 4 or 6 in the Penal Code (assault, unlawful threat or coercion, sexual or other molestation etc.) against a person having, or having had, a close relationship with the perpetrator, shall, if the acts were part of a repeated violation of that person's integrity and intended to seriously damage that person's self-confidence, be sentenced to imprisonment for at least six months and at most six years. The provision on gross violation of integrity is applicable to domestic violence against children.

109. On 1 January 1999, new legislation on extended criminal liability for association with child pornography entered into force. The legislation applies to all kinds of media and therefore also to the electronic environment. Virtually all association with child pornography images, including possession, constitutes a criminal offence. In addition, import and export of child pornography have been prohibited.

110. The definition of child pornography is a depiction of a child in a pornographic picture. There is no requirement that the picture depicts a child involved in a sexual activity of any kind. A picture that, in any other way, depicts a child in a way likely to appeal to the sexual urge, is also regarded as child pornography. This can, for example, be the case in nudist films when close-ups of nude children are explicit.

111. According to the new legislation on child pornography, a child is defined as a person who is not yet fully sexually mature or who, when it is evident from the picture or the circumstances concerning the picture, is under 18 years of age.

112. Negligent acts of dissemination are also punishable if they occur in the course of commercial operations or if they otherwise are committed for profit reasons.

113. Punishment for a child pornography offence shall not be imposed if the act, in view of the circumstances, is defensible. This exception applies essentially to research and for the purpose of forming public opinion. It will therefore be possible for e.g. journalists and NGOs to possess child pornography for the sole purpose of formation of public opinion.

114. According to the new legislation, punishment shall be imposed for attempt to commit a child pornography offence that is not of a petty nature, or attempt to commit, or preparation of, an aggravated child pornography offence. Punishment shall also be imposed for instigation of or accessory (aiding and abetting) to any child pornography offence.

115. The National Criminal Investigation Department is responsible for police work in cases of sexual exploitation of children, including child pornography. This department informs Interpol when an investigation reveals data with international ramifications. The National Criminal Investigation Department has issued an action plan for international police work on child sex offences and child pornography.

116. According to the law on criminal liability for persons who maintain electronic bulletin boards, the supplier of such a service has an obligation to prevent further distribution of a message if it is obvious that the message contains child pornography. This law entered into force on 1 May 1998.

117. A Parliamentary Committee has been instructed to undertake a complete review of the provisions on sexual offences and to consider whether the legislation needs to be made more stringent in some respects. According to the Committee's terms of reference, the review should be based on the requirements of the Convention on the Rights of the Child, as far as sexual offences committed against children are concerned.

118. The Committee has been charged to examine to what extent the offence of rape should focus on consent rather than force. The provisions on rape in relation to children will be especially reviewed.

119. The Committee will investigate whether it is necessary to extend the existing protection of children against exploitation in connection with sexual posing and pornography. According to the current legislation, it is regarded as sexual molestation to sexually touch a child of under 15 years of age or induce the child to undertake or take part in an act with sexual implications, inter alia, to participate in producing pornographic material, or with improper influence induce a person 15-17 years old to take part in pornographic posing or in producing pornographic material. To pay the child is an example of what can be regarded as improper influence. A person committing sexual molestation can be sentenced to a fine or to imprisonment for at most two years. The Committee has been charged with the task of investigating whether the absolute prohibition on using a child of under 15 years of age should be extended to children between 15 and 18 years of age also in cases of "voluntary" participation when no payment is granted. A person who, for example, portrays a child in a pornographic picture can already, according to existing legislation, be sentenced for a child pornography offence.

Article 25

120. In addition to what was stated in the last periodic report (CCPR/C/95/Add.4, para. 118), it should be mentioned that the Parliament in a second and final decision in 1994 decided that parliamentary elections together with county council and municipal council elections should be held every fourth year with a possibility for the voters to cast a specific personal vote. The voters vote for a political party but, within their choice of party, they have a certain amount of influence over the ranking order between the candidates.

Article 26

121. The new Act on Measures to Counteract Ethnic Discrimination in Working Life, in force since 1 May 1999, prohibits both direct and indirect discrimination irrespective of a discriminatory intent from the employer. It also requires employers to take active measures to promote ethnic diversity in the workplace. The Act covers protection against ethnic discrimination in the entire recruitment process, as well as regarding the treatment of employees.

122. The Government has decided to set up a National Action Plan against Racism, Xenophobia and Ethnic Discrimination. A first step towards this plan was taken with the Government's decision of April 2000 to commission the National Integration Office to initiate work in a number of areas to be included in the Action Plan. One example is to establish a national centre for knowledge, experience and methods in the area of work against racism, xenophobia and ethnic discrimination.

123. A second example is that the National Integration Office, in cooperation with the Crime Victim Compensation and Support Authority, is to stimulate measures aimed at increasing the level of knowledge among persons who come into contact with victims of crimes of a racist or xenophobic nature.

124. A third example is that the Office is also to hold discussions with NGOs and other organizations against racism, as well as with municipalities, on how they can play an even more important role against racism than today. Another important task given to the Integration Office in this context is to work together with the Ombudsman against Ethnic Discrimination in order to provide information, education and training on causes of racism and the provisions against racism and ethnic discrimination.

125. New immigrant integration policy objectives and guidelines are in force since 1 January 1998. According to these, the ethnic and cultural diversity of society should be used as the point of departure for shaping general policies and their implementation in all sectors and at all levels of society.

126. The new objectives of integration policy are: equal rights and opportunities for everyone, irrespective of ethnic and cultural background; social cohesion based on diversity; social development characterized by mutual respect and tolerance in which everyone, irrespective of background, should participate and share a sense of commitment.

127. Integration policy should especially aim to create opportunities that enable individuals to support themselves and participate in society, safeguard basic democratic values and work to secure equal rights and opportunities for women and men, and to prevent and counteract discrimination, xenophobia and racism.

128. Policies in all sectors of society are to be based on, and take into account, the ethnic and cultural diversity of society. The pluralistic aspects of society must be reflected both in the shaping and implementation of policy in all areas and on all levels. This applies equally to State authorities, which are to take ethnic and cultural diversity as a point of departure in their work and be aware of the needs for initiatives aiming at promoting integration within their areas of responsibility. The authorities are also to set up action plans on how to promote ethnic diversity in their workforce.

Article 27

129. In February 2000, Sweden ratified the Council of Europe's Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. The ratification came into force on 1 June 2000.

130. The Act on National Minorities in Sweden was adopted in December 1999. The focus of the new Act is on protecting national minorities and the historical regional and minority languages. The national minorities recognized in Sweden are: Sami, Swedish Finns, Tornedalers, Roma and Jews. Their languages, which are all covered by the European Charter for Regional or Minority Languages are: Sami (all forms), Finnish, Meänkieli (Tornedal Finnish), Romani chib (all forms) and Yiddish. Of these Sami, Finnish and Meänkieli are historically and geographically based, which means that more far-reaching measures are needed for these languages.

131. In order to implement the minority policy, a number of steps have been taken at both national and regional level to strengthen the situation of the national minorities in Sweden and give their languages the support necessary to keep them alive. The following examples could be mentioned: the national curricula for State and independent schools have been amended to include provisions on information about national minorities and regional and minority languages; statutes that concern the rights of national minority groups have been translated into regional and minority languages; the National Board of Health and Welfare is investing in elderly care for Finnish speakers in municipalities with a large number of elderly who speak Finnish. The objective is to provide good examples. In the respective administrative regions where Sami, Meänkieli or Finnish are used it is possible to take part in elderly care or pre-school activities in which all or some of the activities are carried out in those languages. See also information under article 14, paragraph 3 above.

132. During the autumn of 2000, the Government will launch an information campaign on the Sami people aimed at the entire Swedish population. Opinion surveys show that there is a need for more information on the Sami and their culture and rights. The currently insufficient awareness of the situation of the Sami among the general public has led to a proliferation of

myths, prejudices and stereotypes. The public debate on Sami issues has thus far been one-sided with a clear focus on territorial disputes, reindeer breeding rights and spectacular events. The aim of the planned information campaign is to rectify that situation. The campaign is scheduled for a period of 3-5 years. It will target public authorities, non-governmental organizations, schools, the media as well as the general public.

133. Also this year, a boundary commission will be appointed to define the boundaries for Sami reindeer breeding rights, giving priority to the extent of the area to be used for winter pasture. The commission is planned to submit its findings within three years.

134. The issue of accession to the ILO Convention No. 169 is still being prepared. The report of the inquiry submitted in March 1999 indicated that Swedish legislation on property rights would need to be strengthened in order to make accession possible. This issue involves the relationship between competing industries in central Norrland - forestry, agriculture and reindeer breeding - and therefore needs to be prepared further. The appointment of a boundary commission is a step in the direction of a possible Swedish accession.

135. The issues of a new reindeer breeding policy and a review of support to reindeer breeding, Sami cultural life, reindeer breeding administration and reindeer breeding legislation etc. are currently being examined by the Reindeer Breeding Policy Commission which is expected to complete its task by April 2001.

136. The scope of Sami hunting and fishing rights on the land which they traditionally occupy is being examined by the Government and will be further clarified.

137. In 2000, the Government will appoint an inquiry with the task of, inter alia, reviewing the organization of the Sameting and its double role as an elected body and government agency.

138. The Nordic Sami Ministers will meet the Presidents of the Sameting in the three Nordic countries with a Sami population later this year, in order to discuss such issues as a Nordic Sami Convention.

The Optional Protocol

139. There are no special procedures for the implementation of the views adopted by the Human Rights Committee under the Optional Protocol. If the Committee should find that Swedish legislation was not in conformity with the Covenant in some way, Sweden could amend its legislation. If the Committee found that the implementation of Swedish law was incompatible with the Covenant, the Government could inform the concerned authority of the Committee's views and give general instructions on how to implement the law.